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APPLICATION OF SOUTHWESTERN	§	BEFORE THE STATE OFFICE
ELECTRIC POWER COMPANY FOR	§	OF
AUTHORITY TO CHANGE RATES	§	ADMINISTRATIVE HEARINGS

**SOUTHWESTERN ELECTRIC POWER COMPANY'S OBJECTIONS TO
SIERRA CLUB'S SIXTH SET OF REQUESTS FOR INFORMATION**

Southwestern Electric Power Company (SWEPCO) objects to Sierra Club's Sixth Set of Requests for Information (RFIs), Question Nos. 6.1 and 6.6-6.9 because the requests seek irrelevant information and are not calculated to lead to the discovery of admissible evidence in this proceeding.

I. NEGOTIATIONS

SWEPCO received Sierra Club's Sixth Set of RFIs on April 29, 2021. Counsel for SWEPCO and Sierra Club have attempted to negotiate these objections diligently and in good faith. The negotiations were unsuccessful. In accordance with SOAH Order No. 2, these objections are timely filed.

II. RESERVATION OF RIGHTS

Based on diligent inquiry, SWEPCO believes that all necessary objections have been raised in this pleading. SWEPCO does not; however, waive its right, if documents are subsequently found that are responsive to these requests, to claim that such documents are privileged if such an objection is determined to be appropriate.

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III. OBJECTIONS

Request for Information

- 6.1 Refer to the Rebuttal Testimony of Mark A. Becker for SWEPCO (“Becker Rebuttal”). Admit that other than Flint Creek and plants located in West Virginia, American Electric Power (“AEP”) has not chosen to invest in CCR and ELG compliance to operate any coal unit beyond 2028. If AEP is making such investments, identify all of the unit(s) at which the AEP has invested to comply with the CCR or ELG rules.

Objection

SWEPCO objects to this request because it seeks information that is irrelevant and outside the scope of permissible discovery.¹ The Commission’s rules define the scope of permissible discovery: “Parties may obtain discovery regarding any matter, not privileged or exempted under the Texas Rules of Civil Evidence, the Texas Rules of Civil Procedure, or other law or rule, that is relevant to the subject matter in the proceeding.”² Information is relevant to the subject matter of a proceeding if the information “has any tendency to make a fact more or less probable than it would be” without the information and that “fact is of consequence in determining the action.”³ Although the scope of discovery in Commission proceedings is broad, requests must show a reasonable expectation of obtaining information that will aid in the dispute’s resolution.⁴ Therefore, discovery requests must be reasonably tailored to include only relevant matters.

The information sought in Sierra Club 6.1 is not related to SWEPCO’s request for relief in this case. As explained in SOAH Order No. 7, the retrofitting of SWEPCO’s Flint Creek plant for continued operations in compliance with the Coal Combustion Residuals (CCR) and Effluent

¹ See Tex. R. Civ. Proc. 192.3(a); 16 TAC § 22.141 (noting scope of discovery to the subject matter in the proceeding); *In re Master Flo Valve Inc.*, 485 S.W.3d 207, 213 (Tex. App.—Houston [14th Dist.] 2016, no pet.) (“Discovery requests must be limited to the relevant time, place and subject matter.”).

² 16 TAC § 22.141(a).

³ Tex. R. Evid. 401.

⁴ *In re Nat’l Lloyd’s Ins. Co.*, 532 S.W.3d 794, 808 (Tex. 2017) (quoting *In re CSX Corp.*, 124 S.W.3d 149, 152 (Tex. 2003) (orig. proceeding)).

Limitations Guidelines (ELG) rules is not relevant to this proceeding because that decision to retrofit Flint Creek was made after the conclusion of the historical test year and the costs associated with that decision are not being reviewed for recovery in this case.⁵ Further, in this request, Sierra Club does not seek information concerning solely SWEPCO's generating plants or that relates to the economic evaluations of those SWEPCO plants addressed in Mr. Becker's rebuttal testimony but rather broadly seeks information concerning *any* investments by AEP for CCR and ELG. Not only does the information requested exceed the scope of Mr. Becker's rebuttal,⁶ it does not concern any projects identified for inclusion in SWEPCO's cost of service in this case or to any particular investments that have been placed in service. To that end, the information Sierra Club seeks through this RFI is not intended to aid the resolution of any matter at issue in this case. Accordingly, the request is not reasonably calculated to lead to the discovery of admissible evidence.⁷

Requests for Information

- 6.6 Refer to Becker Rebuttal, page 9. Explain why Mr. Becker assumed a Flint Creek retirement in 2027 in the CCR/ELG disposition analysis, instead of using the CCR and ELG compliance deadline(s).
- 6.7 Refer to Becker Rebuttal, page 10-11 regarding the Company's use of the PLEXOS model.
 - a. State whether the model was allowed to endogenously retire units at any time, or if the model was only allowed to retire units on their designated retirement dates.
 - b. Provide the energy efficiency cost assumptions modeled in PLEXOS.
- 6.8 Refer to Becker Rebuttal, page 11 regarding unit utilization across scenarios.
 - a. State whether the capacity factors for each unit varied across scenarios.

⁵ SOAH Order No. 7, at 6 (April 27, 2021) (granting SWEPCO's objection and motion to strike Section 5 of Devi Glick's testimony).

⁶ Mr. Becker's rebuttal expressly responds to the allegations made in Sections 4 and 5 of Devi Glick's testimony. In particular, Mr. Becker responds to Ms. Glick's assertions that the Flint Creek and Welsh plants have been uneconomic and SWEPCO's decision to retrofit the Flint Creek plant to operate in compliance with CCR/ELG requirements. *See* Rebuttal Testimony of Mark A. Becker at 2.

⁷ Tex. R. Civ. Proc. 192.3(a).

- b. Provide the annual capacity factors for each of the Company's fossil units for all scenarios.
- 6.9 Refer to Becker Rebuttal, pages 12-13 regarding the Company's modeling of solar PV and battery storage.
- a. State where in the modeling output files battery storage appears.
 - b. State the size (MW) and duration (MWh) of the battery storage resource available to the model.
 - c. Provide the cost by year for battery storage as modeled by the Company.
 - d. State whether the Company modeled paired battery storage and solar PV resources.
 - i. If yes, provide the size and output of each resource, and the resource per year.
 - ii. If no, explain why paired battery storage was not modeled.
 - e. Provide the ELCC applied to solar for each year of the study period in native format or Excel.

Objections

SWEPCO objects to each of these requests because they seek information that is irrelevant, outside the scope of permissible discovery, and will not aid in the resolution of matters in this case.⁸ These requests pertain to rebuttal testimony of Mr. Becker that is explicitly identified as responding to the section of Ms. Glick's testimony that was struck in this proceeding pursuant to SOAH Order No. 7.⁹ As explained in SOAH Order No. 7, Section V of Devi Glick's testimony is not relevant to this proceeding because that section of testimony concerns a decision to retrofit Flint Creek that was made after the conclusion of the historical test year and the costs associated with that decision that are not being reviewed for recovery in this case.¹⁰ Accordingly, and consistent with this order, SWEPCO does not intend to offer Section IV of Mr. Becker's testimony into evidence.

⁸ See *supra* at 2 (providing standard for relevance).

⁹ SOAH Order No. 7, at 6 (April 27, 2021) (granting SWEPCO's objection and motion to strike Section 5 of Devi Glick's testimony).

¹⁰ *Id.*

These requests are not tailored to address matters relevant to this proceeding. The information sought in Sierra Club 6.6 concerns the disposition analysis supporting SWEPCOs decision to retrofit Flint Creek. Sierra Club 6.7 requests information regarding the use of PLEXOS for the unit disposition analysis supporting SWEPCO's decision to retrofit Flint Creek. Sierra Club 6.8 relates to Ms. Glick's unit utilization criticisms of the unit disposition analysis supporting SWEPCO's decision to retrofit Flint Creek. Finally, Sierra Club 6.9 seeks specific information concerning SWEPCO's modeling and assumptions used in its unit disposition analysis. These requests seek information that is not related to SWEPCO's request for relief in this case, does not bear on a fact of consequence in this case, and is beyond the scope of this proceeding. Simply put, the information Sierra Club seeks through RFIs 6.6-6.9 are not intended to aid the resolution of any matter at issue in this case. Accordingly, these requests are not reasonably calculated to lead to the discovery of admissible evidence.¹¹

IV. CONCLUSION

For the foregoing reasons, SWEPCO respectfully requests that its objections to Sierra Club's Sixth Set of RFIs be sustained. SWEPCO further requests any other relief to which it may be justly entitled.

¹¹ Tex. R. Civ. Proc. 192.3(a).

Respectfully submitted,

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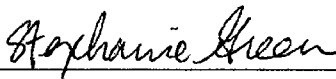
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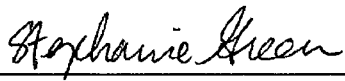
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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on May 6, 2021, in accordance with the Second Order Suspending Rules issued in Project No. 50664 and Order No. 1 in this matter.



Stephanie Green